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11 INTELIUS INC.

12 UNITED STATES DISTRICT COURT  
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
14 SOUTHERN DIVISION

15 LISA LIBERI, et al.,  
16 Plaintiffs,  
17 v.  
18 ORLY TAITZ, et al.,  
19 Defendants.

Case No. 8:11-CV-00485-AG (AJWx)  
Assigned for all purposes to  
Honorable Andrew J. Guilford

**REQUEST FOR JUDICIAL NOTICE  
IN SUPPORT OF INTELIUS INC.'S  
MOTION TO DISMISS**

Date: October 17, 2011  
Time: 10:00 a.m.  
Dept: 10 D

**REQUEST FOR JUDICIAL NOTICE**

**PLEASE TAKE NOTICE** that, under Federal Rule of Evidence 201, and in support of their Motion to Dismiss, Intelius Inc. respectfully requests that the Court take Judicial Notice of the following public records, which are not subject to reasonable dispute because they are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned:

1. The search results Orly Taitz obtained on the name “Lisa Liberi” on April 12, 2009 through [www.intelius.com](http://www.intelius.com), which are incorporated into plaintiffs’ complaint, and attached as Exhibit 1 to the Declaration of Benjamin Nelson in Support of Intelius Inc.’s Motion to Dismiss (“Nelson Decl.”).
2. The search results plaintiff Lisa Liberi obtained on the name “Lisa Liberi” on April 10, 2010, through [www.intelius.com](http://www.intelius.com), which are incorporated into plaintiffs’ complaint, and attached as Exhibit 2 to the to the Nelson Decl. in Support of Intelius Inc.’s Motion to Dismiss.
3. The Talent Wise reports Liberi purchased on herself, on April 10 and 12, 2010, respectively, through [www.talentwise.com](http://www.talentwise.com), which are incorporated into plaintiffs’ complaint, and attached as Exhibit 3 to the to the Nelson Decl. in Support of Intelius Inc.’s Motion to Dismiss.
4. Intelius’ “Terms and Conditions,” which are incorporated into plaintiffs’ complaint, publicly available from Intelius’ website, <http://www.intelius.com/useragreement.php>, and attached as Exhibit 4 to the to the Nelson Decl. in Support of Intelius Inc.’s Motion to Dismiss.
5. The letter plaintiff Philip J. Berg sent on behalf of Liberi to Naveen Jain, dated April 14, 2010, which is incorporated into plaintiffs’ complaint, and attached as Exhibit 5 to the to the Nelson Decl. in Support of Intelius Inc.’s Motion to Dismiss.



1 903, 908 (9th Cir. 2003)), vacated in part on other grounds, 690 F. Supp. 2d 959 (D.  
2 Ariz. 2010); see also In re CNET Networks, Inc. S'holder Derivative Litig., 483 F.  
3 Supp. 2d 947, 953 (N.D. Cal. 2007) ("On considering a motion to dismiss, judicial  
4 notice of the full text of documents referenced in a complaint is proper under the  
5 doctrine of incorporation by reference."). The purpose of this expensive approach  
6 is to "[p]revent [ ] plaintiffs from surviving a Rule 12(b)(6) motion by deliberately  
7 omitting . . . documents upon which their claims are based.'" Swartz v. KPMG  
8 LLP, 476 F.3d 756, 763 (9th Cir. 2007) (citation omitted); see also In re Burlington  
9 Coat Factor Sec. Litig., 114 F.3d 1410, 1426 (3d Cir. 1997) ("Plaintiffs cannot  
10 prevent a court from looking at the texts of the documents on which its claim is  
11 based by failing to attach or explicitly cite them.").

12 These documents available from Intelius' website are the proper subject of  
13 judicial notice because they are incorporated into the First Amended Complaint.  
14 The searches allegedly performed on plaintiffs through Intelius' website form the  
15 basis of plaintiffs' claims against Intelius and, thus, those searches, search results,  
16 and website necessarily have been incorporated into the complaint. (See, e.g.,  
17 FAC, ¶¶ 31, 66-70, 147). Accordingly, the Court is authorized to take judicial  
18 notice of pages made available to consumers performing searches through Intelius'  
19 website, including Intelius' "Terms and Conditions" and "Frequently Asked  
20 Questions." See Baxter v. Intelius, 2010 WL 3791487 at \*2 (C.D. Cal. September  
21 16, 2010) ("[W]hen certain documents are central to the claims and are referred to  
22 by the plaintiffs in the pleadings, they can be deemed part of the pleadings") (J.  
23 Guilford) citing Collins v. Morgan Stanley Dean Witter, 224 F.3d 496, 498 (5th  
24 Cir. 2000) ("Documents that a defendant attaches to a motion to dismiss are [also]  
25 considered part of the pleadings if they are referred to in the plaintiff's complaint  
26 and are central to her claim.")

**CONCLUSION**

For the foregoing reasons, Intelius Inc. respectfully requests that, in connection with its Motion to Dismiss, the Court take judicial notice of the documents and materials identified above.

Dated: September 16, 2011

Respectfully submitted,

JONES DAY

By: /s/ John A. Vogt  
John A. Vogt

ATTORNEYS FOR INTELIIUS INC.